

109TH CONGRESS  
2D SESSION

# H. R. 5240

To amend the Internal Revenue Code of 1986 to suspend the excise tax on highway motor fuels when average United States retail gasoline prices exceed \$2.75 per gallon.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 27, 2006

Mr. McHUGH introduced the following bill; which was referred to the  
Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to suspend the excise tax on highway motor fuels when average United States retail gasoline prices exceed \$2.75 per gallon.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Gasoline Tax Relief  
5       Act of 2006”.

1 **SEC. 2. SUSPENSION OF FUEL TAXES ON HIGHWAY MOTOR**  
 2 **FUELS WHEN WEEKLY UNITED STATES RE-**  
 3 **TAIL GASOLINE PRICES EXCEED BENCH-**  
 4 **MARK.**

5 (a) IN GENERAL.—Section 4081 of the Internal Rev-  
 6 enue Code of 1986 (relating to imposition of tax on motor  
 7 and aviation fuels) is amended by adding at the end the  
 8 following new subsection:

9 “(f) SUSPENSION OF HIGHWAY MOTOR FUEL TAXES  
 10 WHEN RETAIL GASOLINE EXCEEDS BENCHMARK.—

11 “(1) IN GENERAL.—During any suspension pe-  
 12 riod, the tax imposed by section 4041 or 4081 on  
 13 highway motor fuel shall be suspended.

14 “(2) DEFINITIONS.—For purposes of this sub-  
 15 section—

16 “(A) SUSPENSION PERIOD.—The term  
 17 ‘suspension period’ means—

18 “(i) the 60-day period beginning 7  
 19 days after the date of enactment of this  
 20 subsection, and

21 “(ii) after such 60-day period, any pe-  
 22 riod—

23 “(I) beginning 7 days after the  
 24 date on which the weekly United  
 25 States retail gasoline price for regular  
 26 grade conventional areas (as published

1 by the Energy Information Adminis-  
2 tration, Department of Energy), inclu-  
3 sive of such tax, is greater than the  
4 benchmark price, and

5 “(II) ending 7 days after the  
6 date on which such price (as so pub-  
7 lished), without regard to this sub-  
8 section, does not exceed the bench-  
9 mark price.

10 “(B) BENCHMARK PRICE.—For purposes  
11 of this subsection—

12 “(i) IN GENERAL.—The term ‘bench-  
13 mark price’ means \$2.75 per gallon.

14 “(ii) ADJUSTMENT FOR INFLATION.—  
15 In the case of any calendar year beginning  
16 after 2006, the dollar amount in clause (i)  
17 shall be increased by an amount equal to—

18 “(I) such dollar amount, multi-  
19 plied by

20 “(II) the cost-of-living adjust-  
21 ment determined under section 1(f)(3)  
22 for such calendar year, determined by  
23 substituting ‘calendar year 2005’ for  
24 ‘calendar year 1992’ in subparagraph  
25 (B) thereof.

1 Any increase determined under subclause  
2 (II) shall be rounded to the nearest cent.

3 “(C) HIGHWAY MOTOR FUEL.—The term  
4 ‘highway motor fuel’ means any fuel subject to  
5 tax under section 4041 or 4081 other than  
6 aviation gasoline and aviation-grade kerosene.”.

7 (b) MAINTENANCE OF TRUST FUNDS DEPOSITS;  
8 AMOUNTS APPROPRIATED TO TRUST FUNDS TREATED AS  
9 TAXES.—

10 (1) IN GENERAL.—There is hereby appro-  
11 priated (out of any money in the Treasury not other-  
12 wise appropriated) to each trust fund which would  
13 (but for this subsection) receive reduced revenues as  
14 a result of a suspension in a rate of tax by reason  
15 of section 4081(f)(1) of the Internal Revenue Code  
16 of 1986 (as added by this section) an amount equal  
17 to such reduction in revenues. Amounts appropriated  
18 by the preceding sentence to any trust fund—

19 (A) shall be transferred from the general  
20 fund at such times and in such manner as to  
21 replicate to the extent possible the transfers  
22 which would have occurred had subsection (a)  
23 not been enacted, and

24 (B) shall be treated for all purposes of  
25 Federal law as taxes received under the appro-

1           pripate section referred to in such section  
2           4081(f)(1).

3           (c) EFFECTIVE DATE.—The amendment made by  
4 this section shall take effect on the date of the enactment  
5 of this Act.

6           (d) FLOOR STOCK REFUNDS.—

7           (1) IN GENERAL.—If—

8                   (A) before the tax suspension date, tax has  
9                   been imposed under section 4081 of the Inter-  
10                  nal Revenue Code of 1986 on any highway  
11                  motor fuel, and

12                  (B) on such date such fuel is held by a  
13                  dealer and has not been used and is intended  
14                  for sale,

15           there shall be credited or refunded (without interest)  
16           to the person who paid such tax (hereafter in this  
17           subsection referred to as the “taxpayer”) an amount  
18           equal to the excess of the tax paid by the taxpayer  
19           over the tax which would be imposed on such fuel  
20           had the taxable event occurred on such date.

21           (2) TIME FOR FILING CLAIMS.—No credit or re-  
22           fund shall be allowed or made under this subsection  
23           unless—

24                   (A) claim therefor is filed with the Sec-  
25                  retary of the Treasury before the date which is

1           6 months after the tax suspension date based  
2           on a request submitted to the taxpayer before  
3           the date which is 3 months after the tax sus-  
4           pension date by the dealer who held the high-  
5           way motor fuel on such date, and

6           (B) the taxpayer has repaid or agreed to  
7           repay the amount so claimed to such dealer or  
8           has obtained the written consent of such dealer  
9           to the allowance of the credit or the making of  
10          the refund.

11          (3) EXCEPTION FOR FUEL HELD IN RETAIL  
12          STOCKS.—No credit or refund shall be allowed under  
13          this subsection with respect to any highway motor  
14          fuel in retail stocks held at the place where intended  
15          to be sold at retail.

16          (4) DEFINITIONS.—For purposes of this sub-  
17          section—

18                (A) TAX SUSPENSION DATE.—The term  
19                “tax suspension date” means the first day of  
20                any suspension period in effect under section  
21                4081(f) of the Internal Revenue Code of 1986  
22                (as added by subsection (a) of this section).

23                (B) OTHER TERMS.—The terms “dealer”  
24                and “held by a dealer” have the respective

1 meanings given to such terms by section 6412  
2 of such Code.

3 (5) CERTAIN RULES TO APPLY.—Rules similar  
4 to the rules of subsections (b) and (c) of section  
5 6412 of such Code shall apply for purposes of this  
6 subsection.

7 (e) FLOOR STOCKS TAX.—

8 (1) IMPOSITION OF TAX.—In the case of any  
9 highway motor fuel which is held on the tax restora-  
10 tion date by any person, there is hereby imposed a  
11 floor stocks tax equal to the excess of the tax which  
12 would be imposed on such fuel had the taxable event  
13 occurred on such date over the tax (if any) pre-  
14 viously paid (and not credited or refunded) on such  
15 fuel.

16 (2) LIABILITY FOR TAX AND METHOD OF PAY-  
17 MENT.—

18 (A) LIABILITY FOR TAX.—The person  
19 holding highway motor fuel on the tax restora-  
20 tion date to which the tax imposed by para-  
21 graph (1) applies shall be liable for such tax.

22 (B) METHOD OF PAYMENT.—The tax im-  
23 posed by paragraph (1) shall be paid in such  
24 manner as the Secretary shall prescribe.

1 (C) TIME FOR PAYMENT.—The tax im-  
2 posed by paragraph (1) shall be paid on or be-  
3 fore the 45th day after the tax restoration date.

4 (3) DEFINITIONS.—For purposes of this sub-  
5 section—

6 (A) TAX RESTORATION DATE.—The term  
7 “tax restoration date” means the first day after  
8 the end of any suspension period (as defined in  
9 section 4081(f) of the Internal Revenue Code of  
10 1986).

11 (B) HIGHWAY MOTOR FUEL.—The term  
12 “highway motor fuel” has the meaning given to  
13 such term by section 4081(f) of such Code.

14 (C) HELD BY A PERSON.—A highway  
15 motor fuel shall be considered as held by a per-  
16 son if title thereto has passed to such person  
17 (whether or not delivery to the person has been  
18 made).

19 (D) SECRETARY.—The term “Secretary”  
20 means the Secretary of the Treasury or the  
21 Secretary’s delegate.

22 (4) EXCEPTION FOR EXEMPT USES.—The tax  
23 imposed by paragraph (1) shall not apply to any  
24 highway motor fuel held by any person exclusively



1       for any use to the extent a credit or refund of the  
2       tax is allowable for such use.

3           (5) EXCEPTION FOR CERTAIN AMOUNTS OF  
4       FUEL.—

5           (A) IN GENERAL.—No tax shall be im-  
6       posed by paragraph (1) on any highway motor  
7       fuel held on the tax restoration date by any per-  
8       son if the aggregate amount of such highway  
9       motor fuel held by such person on such date  
10      does not exceed 2,000 gallons. The preceding  
11      sentence shall apply only if such person submits  
12      to the Secretary (at the time and in the manner  
13      required by the Secretary) such information as  
14      the Secretary shall require for purposes of this  
15      subparagraph.

16          (B) EXEMPT FUEL.—For purposes of sub-  
17      paragraph (A), there shall not be taken into ac-  
18      count any highway motor fuel held by any per-  
19      son which is exempt from the tax imposed by  
20      paragraph (1) by reason of paragraph (4).

21          (C) CONTROLLED GROUPS.—For purposes  
22      of this subsection—

23           (i) CORPORATIONS.—

1 (I) IN GENERAL.—All persons  
2 treated as a controlled group shall be  
3 treated as 1 person.

4 (II) CONTROLLED GROUP.—The  
5 term “controlled group” has the  
6 meaning given to such term by sub-  
7 section (a) of section 1563 of such  
8 Code; except that for such purposes  
9 the phrase “more than 50 percent”  
10 shall be substituted for the phrase “at  
11 least 80 percent” each place it ap-  
12 pears in such subsection.

13 (ii) NONINCORPORATED PERSONS  
14 UNDER COMMON CONTROL.—Under regula-  
15 tions prescribed by the Secretary, prin-  
16 ciples similar to the principles of subpara-  
17 graph (A) shall apply to a group of per-  
18 sons under common control if 1 or more of  
19 such persons is not a corporation.

20 (6) OTHER LAWS APPLICABLE.—All provisions  
21 of law, including penalties, applicable with respect to  
22 the taxes imposed by section 4081 of such Code  
23 shall, insofar as applicable and not inconsistent with  
24 the provisions of this subsection, apply with respect  
25 to the floor stock taxes imposed by paragraph (1) to

- 1 the same extent as if such taxes were imposed by
- 2 such section.

